IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 8960 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JERAMBHAI PUNJABHAI KOLI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 8960 of 2002

MR YOGESH S LAKHANI for Petitioner No. 1

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 24/02/2003

ORAL JUDGEMENT

Rule. Mr. R.C. Kodekar, learned APP waives service of Rule on behalf of the respondents.

2. This application for bail admittedly arises out of cross cases of scuffle which were reported vide FIRs dated 17.9.2000 registred in Dhanduka Police Station of Ahmedabad District. The complaint filed against the petitioner and other co-accused initially reported offences under sections 324, 323, 504 and 114 of the Indian Penal Code and Section 135 of the Bombay Police Act, but subsequently section 302 of IPC was added due to death of one of the victims.

3. It was submitted on behalf of the petitioner that he is in jail since September 2002 and Charge Sheet is already filed pursuant to completion of the investigation. It was also submitted that all the other co-accused were released on bail, as recorded in the judgment of the learned Sessions Judge in Cr.M.A. No.1029 of 2002, but the petitioner was not released mainly on the ground that a prima facie case was found against him, and no change of circumstance was reported.

4. The learned counsel for both the sides requested not to discuss the material appearing against the petitioner at this stage. However, having regard to the fact that the offences are alleged to have been committed at the place of the petitioner where the persons of the opposite side had come with arms, and as also the fact that all the other co-accused are released on bail and there is no other record of any offence registered against the name of the petitioner, it appears to be in the interest of justice to release the petitioner on bail, on strict conditions as suggested by the learned APP.

5. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail in connection with Crime Register No.I - 70 of 2002 of Dhanduka Police Station on his executing a bond of Rs.10,000/-(Rupees ten thousand only) with one surety of the like amount to the satisfaction of the lower Court and subject to the conditions that he shall;

(a) not take undue advantage of his liberty or misuse his liberty;

(b) not act in a manner injurious to the interest of the prosecution;

(c) maintain law and order;

(e) not leave the local limits of District Ahmedabad

without the prior permission of the concerned Sessions Judge.

(f) furnish the address of his residence at the time of execution of the bond and shall also disclose the police station which is nearest to the place of his residence, where he shall report on 1st and 15th of every month between 9.00 a.m. to 2.00 p.m. He shall not change his residence without prior permission of this Court;

(g) not enter the area under the revenue limits of village Chasiyana without prior permission of the Sessions Court.

(h) surrender his passport, if any, to the lower Court within a week;

6. If breach of any of the above conditions is committed, the concerned Sessions Judge at will be fre to issue warrant or take appropriate action in the matter.

5. Bail before the lower Court having jurisdiction to try the case.

6. The Police Officer shall not cause the applicant/s to wait unnecessarily, but will make the applicant/s free at the earliest.

5. Rule is made absolute. Direct service is permitted.

(D.H. WAGHELA, J.)

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